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April 7, 2011

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Executive Director  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

**RE: Montezuma Rimrock Water Company, LLC**  
**Docket No.: W-04254A-08-0361 & W-04254A-08-0362**

Dear Director:

I hereby formally request to be included on the Corporation Commission's "service list" for all documents and notifications of hearings or any other proceeding involving the Montezuma Rimrock Water Company. Please send all notices to John Dougherty, PO Box 644, Tempe, AZ 85280.

In addition, I am including copies of records obtained from the Arizona Department of Environmental Quality related to the investigation by the Arizona Water Infrastructure Financing Authority that led to its decision to require MRWC to conduct an Environmental Impact Statement in order to obtain a \$165,000 WIFA loan.

The loan was to be used to construct an arsenic treatment facility that will rely on the company's Well No. 4. The 400-foot, 750-gallon per minute well is less than 300 feet from Montezuma Well National Monument and Wet Beaver Creek riparian area.

MRWC is now seeking Commission approval to obtain private financing, thereby avoiding an EIS and increasing overall costs of the project.

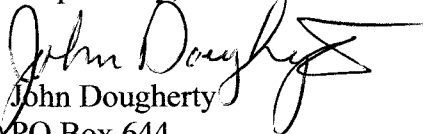
The documents include:

1. A statement by US EPA supporting a requirement for MRWC to conduct an EIS.
2. A statement by Aztec Engineering outlining its reasons supporting the need for an EIS.
3. *A statement from Department of Interior's Montezuma Well National Monument.*

In addition, I've attached a statement by the Arizona Game & Fish Department that addresses its concerns over the proposed operation of the well on Wet Beaver Creek.

These documents support my March 14, 2011 filing asking the Commission to reject MRWC's January 23, 2011 request to seek private financing to build an arsenic treatment plant that will rely on Well No. 4.

Respectfully,

  
John Dougherty  
PO Box 644  
Tempe, AZ 85280

Arizona Corporation Commission  
DOCKETED

APR - 7 2011

DOCKETED BY 

①  
**Sara Konrad**

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**From:** Amaris.Josh@epamail.epa.gov  
**Sent:** Friday, November 19, 2010 1:59 PM  
**To:** Sara Konrad  
**Subject:** Re: FW: MRWC EID Summary and Recommendations

Sara,

In response to writing a letter to MRWC regarding the necessity of undertaking and EIS.

The reasons for needing an EIS are laid out nicely by AZTEC. I would simply use those as the reason you list in justifying the need to undertake an EIS.

Concerns with specific sections of Chapter 4 are:

4.1- Comments on regional groundwater as stated by NPS

4.6- AGFD states concerns for indirect/secondary and cumulative impacts that could impact potential wetlands and riparian areas located along Wet Beaver Creek. A discussion of these considerations is not included.

4.7- Surveys for cultural resources and compliance with Section 106 of the National Historic Preservation Act have not been completed; therefore, potential impacts cannot be assessed.

4.8- Indirect/secondary and cumulative impacts relative to regional groundwater decline and impacts to habitat and species in and along Wet Beaver Creek are not addressed. AGFD has also stated these concerns..

4.9- Surface water discussion relates solely to construction-related impacts and does not address potential indirect impact concerns as stated by NPS and AGFD.

This is also good language to use as a starting point in your letter to MRWC.

We find that the EID and proposed action as presented illustrate that potential resource impacts primarily associated with the connection and future operation of Well Number 4 could be significant. As a result, we recommend that WIFA consider completing an Environmental Impact Statement.

I cannot find any shared documents that are examples of letters sent out notifying of the need to do an EIS.

Call if you have any questions.

**Josh Amaris**  
**US EPA R9**  
**Water Division**  
**Infrastructure Office**  
**415-972-3597**  
**amaris.josh@epa.gov**

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**From:** "Sara Konrad" <skonrad@azwifa.gov>  
**To:** Josh Amaris/R9/USEPA/US@EPA, Jose Caratini/R9/USEPA/US@EPA  
**Date:** 11/18/2010 11:30 AM  
**Subject:** FW: MRWC EID Summary and Recommendations

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3/16/2011

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**From:** Mike Shirley [<mailto:MShirley@aztec.us>]  
**Sent:** Thursday, November 18, 2010 12:02 PM  
**To:** Sara Konrad  
**Cc:** Barbara Macnider; AZG1002 - MontezumaRimrock  
**Subject:** MRWC EID Summary and Recommendations

Good morning Sara,

I have attached our summary and recommendations memo for your review. Please let me know if you have any questions.

Regards,

**Michael Shirley**  
Vice President  
Environmental Services Group Manager

AZTEC Engineering | 4561 E. McDowell Road | Phoenix, AZ 85008  
O: 602.454.0402 | D: 602.458.9288 | F: 602.454.0403 | C: 480.215.0540 | [mshirley@aztec.us](mailto:mshirley@aztec.us)

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"Review Findings Summary Letter.pdf" deleted by Josh Amaris/R9/USEPA/US]

(2)



4561 East McDowell Road  
Phoenix, AZ 85008 Phone: 602-454-0402  
Fax: 602-454-0403

November 18, 2010

Sara Konrad  
Environmental Program Supervisor  
WIFA  
1110 W. Washington, Suite 290  
Phoenix, AZ 85007

Re: Environmental Review and Recommendations  
Montezuma Rimrock Water Company  
Arsenic Facility Installation  
Environmental Information Document

Ms. Konrad:

We have reviewed the Environmental Information Document (EID) prepared by the Montezuma Rimrock Water Company (MRWC), and the comments on the EID from the Arizona Game and Fish Department (AGFD) and the National Park Service (NPS). Our summary of findings and recommendations are based on compliance with the National Environmental Policy Act (NEPA), the US Environmental Protection Agency's interpretation of the requirements set forth by the Council on Environmental Quality under 40 CFR Part 6, Arizona Administrative Code R18-15-107, and other federal, state, and local laws and regulations. This letter includes an overall recommendation for the level (e.g., CE, EA, EIS) of NEPA study needed to authorize the project by the Water Infrastructure and Finance Authority based on resource considerations, and the overall context and intensity of potential impacts to these resources.

As described in Chapters 1 and 2 of the EID, the project would provide infrastructure to supply water meeting EPA's Safe Drinking Water standards. A Notice of Violation for "distribution of water in excess of MCL for an inorganic chemical" was issued to the MRWC on December 17, 2008. Subsequently, the MRWC was placed under a consent order to provide water that contains 10 µg/l or less arsenic. To accomplish this, an arsenic treatment facility is proposed along with the pipelines to connect Well Numbers 1 and 4 to this facility.

Potential impacts attributed to the use of Well Number 4 are the primary subject of concern for the NPS and the AGFD as conveyed by their written responses. Both agencies agree with the need to provide safe drinking water to local residents. The NPS provided a comparison scenario to illustrate their concern for the analysis of potential regional groundwater level decline that was presented in the EID. Again, the NPS concern with the groundwater level decline analysis appears to be primarily targeted at the inclusion of Well Number 4 in to the MRWC's operating system. The NPS also provides specific comments relative to the inadequacy of the EID's analysis presented in Chapter 4.

The analysis provided by the MRWC in Chapter 4 of the EID does not fully address the requirements set forth in Arizona Administrative Code R18-15-107. Section E4 of that code specifically states in reference to conducting a comparative analysis of feasible alternatives that "*the comparison shall focus*

*on the beneficial and adverse consequences, both direct and indirect, on the existing environment, the future environment..."* Chapter 4 of the EID is solely focused on the potential impacts of the proposed action and does not contain any discussion of either the Point of Use Reverse Osmosis Alternative or the No Action Alternative. Chapter 4 of the EID also fails to discuss the potential indirect or cumulative impacts of the proposed action.


Concerns with specific sections of Chapter 4 are:

- 4.1- Comments on regional groundwater as stated by NPS
- 4.6- AGFD states concerns for indirect/secondary and cumulative impacts that could impact potential wetlands and riparian areas located along Wet Beaver Creek. A discussion of these considerations is not included.
- 4.7- Surveys for cultural resources and compliance with Section 106 of the National Historic Preservation Act have not been completed; therefore, potential impacts cannot be assessed.
- 4.8- Indirect/secondary and cumulative impacts relative to regional groundwater decline and impacts to habitat and species in and along Wet Beaver Creek are not addressed. AGFD has also stated these concerns..
- 4.9- Surface water discussion relates solely to construction-related impacts and does not address potential indirect impact concerns as stated by NPS and AGFD.

We find that the EID and proposed action as presented illustrate that potential resource impacts primarily associated with the connection and future operation of Well Number 4 could be significant. As a result, we recommend that WIFA consider completing an Environmental Impact Statement.

As an alternative, WIFA could recommend that the MRWC amend their application to not include Well Number 4 in their current or **future** operations if this would still meet the needs of the MRWC customers. Additionally, MRWC could attempt to locate another well that would not negatively impact the regional groundwater, Montezuma's Well, or Wet Beaver Creek. In any case, WIFA should require the completion of the required cultural resource surveys and report, and insure that individual sections of the EID fully address the intent of Arizona Administrative Code R18-15-107.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Shirley". The signature is fluid and cursive, with the first name "Mike" and last name "Shirley" clearly distinguishable.

Mike Shirley  
Vice President  
AZTEC Engineering, Arizona LLC

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# United States Department of the Interior

## NATIONAL PARK SERVICE

Montezuma Castle and Tuzigoot National Monuments

527 S. Main St.

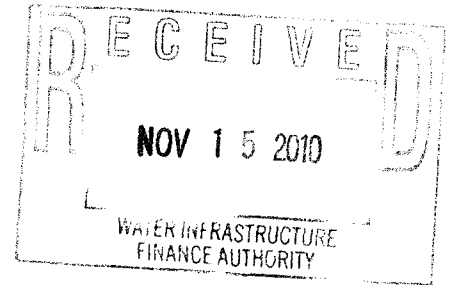
PO Box 219

Camp Verde, AZ 86322



IN REPLY REFER TO:  
N3041

Sara Konrad  
Environmental Program Supervisor  
1110 West Washington, Suite 290  
Phoenix, Arizona 85007



November 8, 2010

Dear Ms. Konrad,

Thank you for the opportunity to comment on the "Environmental Information Document Arsenic Facility Installation, Montezuma Rimrock Water Company, LLC."

We have enclosed our comments, which are from four different people: two from national monument staff, one from our Washington Office Water Resources Division, and one from a private groundwater hydrologist consultant that we contracted to review the document.

The National Park Service believes that people need safe potable water. We do have concerns about the project in particular with the cumulative effects of the new well: the numbers that were used as the regional groundwater annual decline of 2.55 feet in the document do not match our own numbers which show a regional groundwater annual decline of 5.0 feet (nearly twice their number). Because of this difference, we do not think that the analyses done by the document accurately relates the impacts to groundwater declines in the region.

Furthermore, with that level of decline in ground water levels, we are anticipating that the commercial wells would also need to be drilled deeper to access groundwater than was analyzed. If the wells drilled deeper into the lower unit of the regional aquifer with rock units of the Paleozoic section, we anticipate that this could directly affect Montezuma Well proper.

If you have any questions, please do not hesitate to contact me (928-567-5276 x 223) or Sharon Kim, Chief of Natural Resources (928-649-6195x 226).

Sincerely,

Kathy Davis  
Superintendent

Enclosures



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

5000 W. CAREFREE HIGHWAY  
PHOENIX, AZ 85086-5000  
(602) 942-3000 • WWW.AZGFD.GOV

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February 24, 2010

Ms. Patricia Olsen  
Montezuma Rimrock Water Co., LLC  
PO Box 10  
Rimrock, AZ 86335

Re: **Tiemann Well**

Dear Ms. Olsen:

The Arizona Game and Fish Department (Department) has received your email dated February 8, 2010, requesting a review of biological issues for Tiemann Well in Rimrock, Arizona. The Department understands the project would entail pumping water from the well and transporting it to an offsite treatment facility before distributing for human consumption. The general concerns identified are based on the conclusions presented in the report. Our specific comments regarding the well report are discussed below and involve concerns with the long-term impacts to surface flows, aquatic habitat, and riparian vegetation.

One of the supporting factors in determining the lack of a connection to the surface waters of Wet Beaver Creek is a comparison of the water quality in the well versus the water quality in the creek during the 72 hour pump test. Wet Beaver Creek was flowing above base flow at the time of the test as a result of spring snowmelt run-off. This run-off does change the water quality parameters from those occurring normally during base-flows within a stream. However, it would not be unusual for the water quality parameters to be different between the well water and surface stream flow, due to the delay required for the surface flows to percolate through the aquifer and be intercepted by the well. The report failed to identify what the normal travel times might be through the alluvium and aquifer to determine if there was a realistic opportunity for the run-off discharge in the creek to reach the well (percolate through the aquifer). If the pump test were run when the stream was at base flow, it might be more feasible to expect a closer correlation between the two sets of parameters.

The second factor used to conclude the well is not under direct influence of the perennial surface waters of Wet Beaver Creek is an evaluation of the physical hydrologic conditions. The data presented in the report did not support the conclusion. The Wet Beaver Creek channel sits at 3460 feet in elevation. The static water level in the well is at 3384 feet in elevation, indicating a hydraulic head of 74 feet from the stream to the well. The well drilling log provides a description of the subsurface geology from the

Ms. Patricia Olsen  
February 24, 2010  
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surface down to 400 feet in elevation. There are additional wells in the area that have not had their logs analyzed which could provide a broader understanding of the subsurface geology that might further indicate the presence or absence of an aquitard or aquiclude as concluded in the report. Clay layers and well-cemented conglomerates (if not fractured) are recognized features that may function as aquitards or aquicludes. However, because other well logs in the area were not provided, there is no way to determine the slope of the various layers depicted in the well log to support this conclusion. It is possible that the first limestone layer (which also sits at approximately the same level of the water surface in the well) is the layer which intersects the stream channel and allows for a direct capture of surface flow to reach the well through that limestone karst layer. Thus, if this test were run at base flow conditions or for a longer period of time, an expected outcome might result in a greater drawdown curve.

Finally, Figure 6 provides an indication of a direct relationship to seasonal recharge from apparent winter storm run-off or precipitation events. Water levels in the USGS observation well appear to show an increase in response to winter run-off activity in Wet Beaver Creek or elsewhere. This may show the delayed response and the time needed for the surface run-off to begin recharging the aquifer in the area that the USGS monitoring well is measuring and the Tiemann Well is pumping from.

Based on our review of the report and what we perceive as insufficient evidence, we cannot support the conclusion that the Tiemann Well is pumping from an aquifer discrete and separate from the surface flows in Wet Beaver Creek. We are concerned long-term pumping would negatively impact riparian vegetation and important wildlife habitat in the area reliant on the subsurface aquifer along Wet Beaver Creek. Furthermore, the cumulative impacts of long-term pumping of wells in this area may be contributing to a continued migration of the downstream end of perennial reach of stream in an upstream direction, resulting in loss of surface aquatic wildlife habitats, exacerbated by the long-term drought in the region as was mentioned in the report. Any decrease or degrading of aquatic/riparian vegetation would directly and negatively impact the quality/quantity of wildlife habitat by decreasing cover, forage, and breeding habitat.

The Department appreciates the opportunity to provide comments on the Tiemann Well report. If you have any questions regarding this letter, the attachments, or would like to further discuss project specifics, please contact me at (623) 236-7606.

Sincerely,



Ginger Ritter, Project Evaluation Specialist

cc: Laura Canaca, Project Evaluation Program Supervisor  
Sara Reif, Habitat Program Manager, Region II

AGFD # M10-02231932